

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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SHAUN P. GARVEY,

Plaintiff,

v.

5:16-cv-1073  
(TJM/ATB)

CHILDTIME LEARNING CENTER,

Defendant.

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**Thomas J. McAvoy, SR. U.S.D.J.**

**DECISION and ORDER**

The Court referred this employment-discrimination action, brought pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Rule 72.3(d) of the Local Rules of the Northern District of New York. Plaintiff alleges that Defendant discriminated against him in hiring because of his sexual orientation and gender.

The Report-Recommendation, dated September 12, 2016, gave the Complaint, filed *in forma pauperis*, a screening to determine whether Plaintiff has stated a plausible claim pursuant 28 U.S.C. § 1915(e). After reviewing the Complaint, Magistrate Judge Baxter recommended that the Court dismiss the Complaint with leave to replead claims of sex discrimination pursuant to Title VII.

Plaintiff did not file objections to the Report-Recommendation but instead filed an

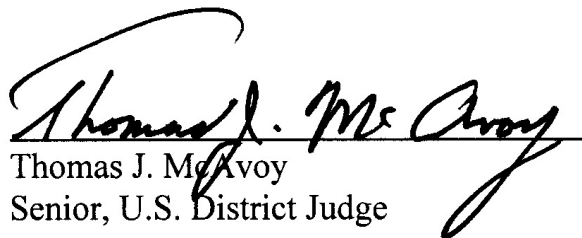
Amended Complaint. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly:

The Report-Recommendation, dkt. # 5, is hereby ADOPTED, and the Plaintiff's Complaint is hereby DISMISSED. As Plaintiff has already filed an Amended Complaint, the Clerk of Court is DIRECTED to deliver the Amended Complaint, dkt. # 7, to Magistrate Judge Baxter for an initial screening pursuant to 28 U.S.C. § 1915(e).

**IT IS SO ORDERED**

Dated: October 17, 2016

  
Thomas J. McAvoy  
Senior, U.S. District Judge